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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,026	07/26/2001	Gowri Rajaram	UTL 00113	7642

7590 01/05/2007
Kyocera Wireless Corp.
Attn: Patent Department
10300 Campus Point Drive
San Diego, CA 92121

EXAMINER

TORRES, MARCOS L

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/917,026

Applicant(s)

RAJARAM, GOWRI

Examiner

Marcos L. Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006 and 23 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10-23-06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10-16-2006 has been entered.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 10-23-2006 was considered during the time given to the examiner to process the case. If the applicant believes that a particular document is relevant to the prosecution of the case, the applicant is invited to mention the particular document to the examiner.

Claim Objections

3. Claims 51 and 52 are objected to because of the following informalities: These claims recite the limitation "one code section ... comprises two code sections" this is an oxymoron. It is not clear if it one or two code sections. For examination purposes it would be understood as two code sub-sections. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 39-47 and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison US006449476B1 in view of Kuroda US006457174B1.

As to claim 39, Hutchison disclose a method for updating system software in a wireless communications device (see col. 1, lines 8-11), coping a patch manager code section (program) stored in a nonvolatile memory (ROM) to a volatile memory (RAM) (moving data from ROM to be executed in RAM; shadowing see col. 3, lines 57-64); receiving a broadcasted system software update comprising an update code section (see col. 7, lines 49-53) and a update patch manager (see col. 7, lines 31-35); storing the system software update on a file system section of the nonvolatile memory module (see fig. 1, item 116), updating at least a portion of a code section of a plurality of code sections stored in a code storage section of the nonvolatile memory with the code update code section (see col. 8, lines 7-9), each code section of the plurality of code section comprising at least one symbol library having a plurality of symbols of related functionality (features)(see col. 5, lines 2-10; fig. 1, 2); updating at least a portion of the patch manager code section of the nonvolatile memory with at least a portion of the

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update patch manager (see col. 7, lines 31-35), comprising updating a code section address table of the patch manager code section which store a code section identifier and a start address for each code section of the plurality of code sections (see fig. 4, item 174-180; col. 7, line 66 – col. 8, line 35). Hutchinson does not specifically disclose updating a symbol offset address table which stores an offset reference for each symbol of the plurality of symbols in the at least one symbol library of the each code section, the offset reference comprising an offset value derived from the start address of the each code section.

In an analogous art, Kuroda discloses the method of updating a symbol offset address table which stores an offset reference for each symbol of the plurality of symbols in the at least one symbol library of the each code section, the offset reference comprising an offset value derived from the start address of the each code section (see abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique to the Hutchinson method for better management of the memory resources.

As to claim 40, Hutchinson disclose the method further comprising executing the system software update from the nonvolatile memory, loading the system software update from the patch manager code section and the code storage section within the nonvolatile memory module to a volatile memory component and performing at least one requested action (see col. 5, lines 11-65).

As to claims 41 and 43-44, Hutchinson disclose the method wherein each symbol of the plurality of symbols is associated with a symbol access code (see col. 4, lines 15-

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22), further comprising: arranging the symbol access code in the corresponding symbol library and repeating the step above (see col. 4, lines 27-36; col. 5, lines 11-61), since the claim does specify the difference between a symbol library and symbol access code, for examining purposes they are the same.

As to claim 42, Hutchinson disclose the method further comprises referencing the symbol access code to calculate an address of a sought symbol, comprising accessing a code section address table and a symbol address table to determine a corresponding code section identifier and accessing the code section address table to determine a start address of the corresponding code section (see col. 6, lines 9-21; col. 4, lines 16-22). Hutchinson does not specifically disclose using an offset address table. In an analogous art, Kuroda discloses a symbol offset address table (see abstract).

Regarding claims 45 and 53 are the corresponding apparatus claims of method claims 39 and 43. Therefore, claims 45 and 53 are rejected for the same reasons shown above.

As to claims 47, Hutchinson discloses the wireless communication device wherein the patch manager code section further comprises (see fig. 1, item 114,115,116): a read-write section (see fig. 1, item 114,115,116): a symbol accessor code section (see fig. 2, item 124,126,128); a symbol accessor address code section (see fig. 3, item 160); and a patch library (see col. 5, lines 2-10).

As to claims 49, Hutchinson discloses the wireless communication device wherein at least part of the patch manager code section is overwritten with the updated patch manager code section (see col. 7, lines 10-20).

As to claims 50-51, Hutchinson discloses the wireless communication device wherein the at least one code storage section comprises at least two code sections (see fig. 1, item 1116,134,136); wherein the received updated code section and the received updates patch manager code section define a system software update, and wherein code section of the at least two code section store at least part of the software update (see col. 5, lines 11-61).

As to claims 46 and 52, Hutchinson discloses the wireless communication device wherein the patch manager code section is configured to control the system software update (see col. 9, lines 7-30).

7. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchinson in view of Kuroda as applied to claim 45 above, and further in view of Shaw 20020026634.

As to claim 48, Hutchison and Kuroda disclose everything as explained above (see claim 45) except for the wireless communication device wherein the patch manager code section is loaded into a volatile memory upon a reset condition. In an analogous art, Shaw discloses for the wireless communication device wherein the patch manager code section is loaded into a volatile memory upon a reset condition (see par. 0024-0026). Therefore, it would have obvious to one of the ordinary skill in the art at the time of the invention to use a reset to upgrade for the simple purpose of initialize with the new code.

Conclusion

Any response to this Office Action should be mailed to:

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for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L. Torres whose telephone number is 571-272-7926. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcos L Torres
Examiner
Art Unit 2617


mlt


GEORGE ENG
SUPERVISORY PATENT EXAMINER